IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5255 of 2000

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BHESDANIYA BHARATKUMAR AMARSHI

Versus

STATE OF GUJARAT, 3RD SPECIAL LAND ACQUISITION

Appearance:

1. Special Civil Application No. 5255 of 2000

MR MURALI N DEVNANI for Petitioner No. 1-11

MR. L.B. DABHI, LD. AGP for Respondent No. 1-4

MR PV HATHI for Respondent No. 3-4

RULE SERVED for Respondent No. 5

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 05/07/2004

ORAL JUDGEMENT

1. The petitioners are challenging the action of the respondents in not preparing the select list 20 % more than the prescribed vacancies advertised at Annexure-A dated 12-11-1999. Mr. M.N. Devnani, learned advocate for the petitioners submitted that under the rules the respondents are required to prepare 20 % more than the expected vacancies. In the present case the total expected vacancy was 1160, therefore the respondents were required to prepare total list of 1392 candidates as per the rules which are applicable in the present case, namely Vidya Sahayaks Recruitment/Selection Rules more particularly under Rule- 8(A) where it is prescribed that the District Primary Education Officer or Administrative Officer will permit to prepare select list of more than 20 % of the estimated vacancies and the period of such select list will be one year, thereafter the life of said select list will be automatically expired.

2. The petition is filed on 27th May 2000 and the matter was admitted on 10th July 2000. It is submitted by Mr. Mehta for Mr. Hathi, learned advocate for the respondents that none of the petitioners are reflected in the merit/select list and pursuant to the direction issued by respondent No.2 to the District Primary Education Officer, Jamnagar to fill in remaining vacancies after issuing fresh advertisement, in view of the fact that education department has rejected the proposal sent by the District Primary Education Officer to fill up the remaining post of Vidya Sahayaks vide letter dated 3rd April 2000. This fact was informed to the petitioner by the President, Jamnagar District Panchayat by his letter dated 22-5-2000.

3. As per the rules it is true that it is desirable that the authority may prepare 20 % more than the expected vacancy, but if that is not done, the Court cannot direct them to prepare select list as per the rules. Apart from that, the select list was prepared in 1999 and as per the rules the duration of the said list is one year and on expiry of one year said select list is cancelled automatically. Therefore no direction can be issued to the respondents in as much as none of the petitioners name was reflected in the merit/select list. In this view of the matter the petition is dismissed. Rule discharged. Interim reliefs stands vacated. No costs.

Dt: 5-7-2004 (K.S. Jhaveri, J)

/vgn